

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CLAUDE L. KELLEY,

Plaintiff,

v.

JO ANNE B. BARNHART,
Commissioner of Social Security

Defendant.

CIVIL ACTION

No. 03-6653

ORDER

June 1, 2005

On review of the Report and Recommendation of United States Magistrate Judge Carol Sandra Moore Wells, dated December 29, 2004, to which no objections have been filed, it is hereby ORDERED that:

- (1) The Report and Recommendation (Docket #14) is APPROVED and ADOPTED;
- (2) The Commissioner's Motion for Summary Judgment (Docket #13) is DENIED;
- (3) The Plaintiff's Motion for Summary Judgment (Docket #11) is GRANTED in part and DENIED in part; and
- (4) This matter is REMANDED to the Commissioner to (a) reassess Plaintiff's subjective complaints of pain and make a proper materiality finding; (b) consider Plaintiff's alleged side effects to his medications and any relevant limitations and/or vocational consequences he may experience as a result; (c) evaluate the testimony of Mrs. Kelly; (d) re-evaluate and explicitly explain the weight accorded Plaintiff's treating and/or consultative physicians; (e) reevaluate Plaintiff's RFC; (f) efficiently investigate and document the responsibilities of Plaintiff's past relevant work and if necessary, submit a complete and accurate

hypothetic to a vocational expert with all of Plaintiff's legitimate significant physical limitations, as well as the revised RFC, to determine what positions, if any, Plaintiff could perform in the national and regional economy.

Pollak, J.